

## **Chapter 11**

### **Recommendations and Conclusions**

A summary of the recommendations and conclusions listed by Chapter follows.

#### **Chapter 6 - Hydropower Water Rights and Basin Water Use**

The State of Montana should open discussions with USBR to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for Montana uses other than hydropower.

#### **Chapter 7 - Options to Protect the Security of Water Rights**

- 7-1 The State of Montana should complete the state-wide adjudication of water rights by:
- Establishing a reasonable goal, such as 5 years, for achieving enforceable water rights decrees in the Clark Fork basin.
  - Providing additional resources for the adjudication process by:
    - Providing additional funding for the Water Court and DNRC; and
    - Re-prioritizing DNRC's existing resources to focus on the adjudication.
- 7-2 All reasonable efforts should be made to ensure that the adjudication results in durable and accurate water rights. To improve the accuracy of the water rights adjudication the Montana Water Court should formally announce that it will examine claims with DNRC issue remarks to which no objections have been filed and resolve those it finds to be inaccurate.
- 7-3 The State of Montana and the Confederated Salish and Kootenai Tribes should move as rapidly as possible to resolve the status through negotiation or litigation.
- 7-4 The Montana Legislature and DNRC should work together to ensure that DNRC has adequate funding and staffing to carry out its water related responsibilities in a prompt and efficient manner.
- 7-5 The State of Montana should act to reduce the burden on existing water rights holders to protect their rights through:
- Direction from the Montana Legislature in an appropriation to DNRC to investigate and enforce water rights.
  - Direction from the Montana Legislature to DNRC to provide mediators to resolve water right disputes.
  - Administration by DNRC of a program that trains, selects, and evaluates water commissioners.
  - Sharing the cost of the water commissioners by all rights holders according to their share of the total basin water rights rather than just those receiving water.
- 7-6 The Montana Legislature could explicitly authorize a judge to award attorney fees to a private party bringing a successful action for an illegal use of water when diversions are made without a water use permit or existing water right.
- 7-7 DNRC could rules which it is currently developing rules to establish criteria for objecting to water rights permit and change applications that increase the burden on applicants while reducing the burden on existing rights holders in an expeditious manner.

#### **Chapter 8 - Options for the Orderly Development of Water**

- 8-1 While the adjudication does not determine either the legal or physical availability of water for future appropriations, without completing it, full knowledge of water rights cannot exist, and additional water development may be at risk to future adjudicatory rulings by the Water Court, particularly in the Flathead and Blackfoot sub-basins in which preliminary decrees have not been issued.

- 8-2 DNRC should change the water rights permitting requirements and process by requiring an evaluation of cumulative impacts before granting surface or groundwater permits.
- 8-3 The regulation and management of surface and groundwater should conform to the legal standard that water is a unitary resource by:
- Amending the 35 gpm/10 acre-feet exemption to require a permit for groundwater wells that are developed as part of a common project, such as a subdivision.
  - Development of a legally defensible definition of a hydrologic connection between surface and groundwater.
  - Requiring applicants for a groundwater permit to provide information demonstrating the nature of the surface-groundwater connection.
- 8-4 The State of Montana should issue water leases as well as new water right permits to allow new water developments.
- 8-5 The State of Montana should examine and develop appropriate rules for authorization and management of groundwater augmentation to enhance basin water supplies or recharge groundwater resources as potential management.
- 8-6 The Legislative Water Policy Committee should be re-established to increase the focus on water issues and water education for legislators.
- 8-7 The Montana Legislature should appoint interim committees to consider:
- The ongoing water rights adjudication; and
  - Establishing specialized water courts to oversee water administration instead of relying district courts.
- 8-8 Single- and multi-purpose organizations such as conservancy or irrigation districts that can manage or participate in the management of water quantity could be created when they would be effective at the scale at which the management would occur.
- 8-9 Individual and water user organizations could provide for water use by existing and future users by:
- Examining options for increasing water use through use of high spring flows and snow melt (rain on snow events);
  - Increasing water storage;
  - Actively managing return flows;
  - Continuing to use water leasing and water marketing as management tools; and
  - Protecting and rehabilitating wetlands through active floodplain and wetland management, bank storage, etc.
- 8-10 Additional research is needed to:
- Evaluate the availability of the basin's groundwater, its recharge rate, and groundwater-surface water interrelationships.
  - Define more accurately sub-basin hydrology and water, biological, and economic relationships.
  - Study water availability to identify places of stress and the impacts of sewer system installations on water quality.
- 8-11 Ongoing monitoring by of stream flow, groundwater, and snow pack is critical to both research and water management; funding should be provided to state and federal agencies to continue this monitoring.

## **Chapter 9 - Options for Conserving Water**

- 9-1 Cities and counties could use their zoning and subdivision review powers to:
- Protect areas in which surface waters recharge groundwater.
  - Require water meters in new subdivisions and government-owned water systems.
  - Promote conservation through adoption of model conservation ordinances that regulate water use during periods of a water distribution shortfall.
- 9-4 DNRC can help to promote water conservation by

- Improving its system for handling and managing water data to make the data more accessible to the public.
  - Requiring measurement of water use for new water permits and change authorizations.
  - Reaching agreement with DEQ to coordinate information required from groundwater pump tests.
- 9-3 Pursuant to the mandate of its organic act, the USFS should optimize favorable flow conditions in its management. It should do so.
- 9-4 Individuals and water user organizations can take additional actions to provide for the long-term, sustainable use of water by:
- Measuring water uses and diversions;
  - Improving water conveyance efficiency;
  - Managing groundwater provided by irrigation;
  - Identifying, managing, and protecting areas in which surface waters recharge groundwater; and
  - Managing the supply side, e.g. using artificial recharge.
- 9-5 Individuals, organizations, and, where appropriate, government agencies should work together to form sub-basin planning entities which in turn can and should develop and implement drought plans targeted at the objectives of local water users.
- 9-6 Government agencies and water user organizations should provide long-term, coordinated education for water users, including information about activities that might affect groundwater recharge and quality and the connection between wasting water and wasting electricity.
- 9-7 Specific research topics that should be pursued include:
- The connection between groundwater infiltration and base stream flow;
  - The connection between the basin vegetation and base flow;
  - Quantification of water conservation activities; and
  - The 7-day average low flow in a 10-year period (sometimes known as 7Q10).

## **Chapter 10 - Plan Implementation**

- 10-1 The Task Force mandate should be continued and explicitly extended by the Legislature to include continuing plan implementation oversight and evaluation.
- 10-2 The Task Force should be provided an annual budget of \$20,000 to carry out its mandate.